Command Directed Evaluations

CDEs

Michelle L. Zak, PhD, Capt, USAF, BSC
John F. Drozd, PhD, Capt, USAF,BSC

Objectives

① To outline procedures for routine and emergency Commander-Directed Mental Health Evaluations (CDMHE) for AD military members.

② To introduce the legal, ethical, and clinical issues involved with Command Directed Mental Health Evaluations

Outline

I. Command Directed Evaluations
   A. References
   B. Definition
   C. Referral Questions
   D. Procedures

II. Emergency Command Directed Evaluations
   A. Definition
   B. Scope
   C. Procedures

III. Legal / Ethical Issues in CDEs
   A. Confidentiality and AF Mental Health
   B. Limited Privilege
   C. The Therapeutic Alliance

IV. Summary

References

Commanders' prerogative to direct a military member for a
mental health evaluation.

However, the Boxer Amendment guarantees certain legal rights to members being directed for an evaluation

The following publications specify procedures for requesting, generating, and reporting Command Directed Evaluations and member's rights throughout the process

AFI 44-109 (recent revision 1 March 2000)
Mental Health, Confidentiality, and Military Law
DoDI 6490.4 (28 August 1997)
Requirements for Mental Health Evaluations of Members of the Armed Forces

Commander-Directed Mental Health Evaluation (CDMHE)

A psychological evaluation conducted for the purpose of determining a member's fitness for duty in the armed forces.

A CDE is NOT

- A medical referral
- A mechanism to motivate an AD member to get help
- A punishment

ROUTINE COMMANDER-DIRECTED MENTAL HEALTH EVALUATIONS

Commander-directed Mental Health Evaluations Procedures

If a troop is exhibiting problem behavior that adversely affects duty performance and does not respond to behavioral or administrative corrective action, a Commander may choose to consult with a mental health provider and request a CDMHE.

A mental health provider can determine whether the requests are appropriate for evaluation.

Commander-directed Mental Health Evaluations Procedures

A mental health provider can determine whether the requests are appropriate for evaluation.

ROUTINE COMMANDER-DIRECTED CRITERIA

Commander-directed Mental Health Evaluations

Criteria 1

Commanders cannot request CDMHE for behaviors or problems that do not affect duty performance or mission readiness

Commander-directed Mental Health Evaluations

Criteria 2

Commanders must be able to formulate referral questions that can be realistically addressed by psychological testing or evaluation.

- "Should military member be allowed to carry weapons?" is a realistic question
- "Is member too immature to be in USAF?" probably is not.

Commander-directed Mental Health Evaluations

Criteria 3

The outcome from any Commander-directed evaluation must potentially change the current status of the military member.

A military member who is already being separated or cross-trained is probably not appropriate for a directed mental health evaluation.

Commander-directed Mental Health Evaluations

Criteria 4

The referral questions posed by the requested Commander must be specific.

Questions about suitability for military service, security clearances, and cross-training are appropriate.

Being “curious” about a military member’s behavior is not appropriate for a mental health evaluation.

Commander-directed Mental Health Evaluations

Criteria 5

A Commander-directed mental health evaluation must address the referral questions more appropriately than administrative action.

Criminal charges or misconduct that are not directly related to a mental health disorder would probably be better dealt with by an administrative or judicial action, rather than by a mental health evaluation.

Commander-directed Mental Health Evaluations

Criteria 6

There must be documentation that disciplinary action/counseling has been ineffective.

What disciplinary actions have already been administered and proven ineffective in changing the military member's behavior?

Common Referral Questions

Is member suffering from a mental, emotional, or personality disorder that renders him/her unfit for continued military service?

Common Referral Questions

Is member suffering from a condition that makes him or her unsuited for current AFSC?

Is cross-training appropriate?

Common Referral Questions

Is the member suffering from a condition that makes him/her unreliable or disqualified for special duties requiring security clearance, flying status, PRP, weapons, etc.?

Common Referral Questions

Can psychological or psychiatric treatment help this member?

What is the likelihood that this member could function effectively in the military if such treatment was administered?

Steps of the Commander-Directed Mental Health Evaluations

Steps of the Commander-directed Mental Health Evaluations

STEP ONE **The Commander must assemble and provide all relevant information in writing to the Mental Health provider who will be conducting the evaluation.**

- Performance reports, legal documents, administrative actions, punishments

Steps of the Commander-directed Mental Health Evaluations

STEP TWO **The Commander must consult an Air Force Clinical Psychologist, Psychiatrist, or doctoral-level Social Worker before requesting a formal evaluation.** Consultation with a mental health provider before deciding to send a member for a CDMHE is required by AFI 44-109.

Steps of the Commander-directed Mental Health Evaluations

STEP THREE **The Commander must inform the Service member of the evaluation in writing in accordance with DoD Directive 6490.1 and DoD Instruction 6490.4.**

The notification must contain:

- the date and time of the evaluation
- a brief factual description of the behaviors that caused the referral
- the name of the mental health provider who was consulted prior to the evaluation
- the positions and telephone numbers of authorities (IG, ADC) who can assist a member who wishes to question the referral
- a copy of the member's rights as contained in AFI 44-109

Steps of the Commander-directed Mental Health Evaluations

STEP FOUR **The requesting Commander must also send an evaluation request form to the Medical Treatment Facility Commander in order that he or she can review for appropriateness.**

- This step is included in order to ensure that mental health providers are not subjected to undue pressure or influence by requesting Commanders
- The completed evaluation is also routed through the MTF Commander for administrative oversight and/or approval prior to transmission to the requesting Commander

Steps of the Commander-directed Mental Health Evaluations

STEP FIVE **The member appears for the evaluation. The provider conducting the evaluation will review the nature of the referral with the member and review his/her rights in the process.**

There will usually be multiple appointments, possibly psychological testing, and a second opinion option is available at member's expense.

Significant limitations to confidentiality in the CDMHE process

- UCMJ violations
- Written report to Commander
- Collateral information obtained
- Level of cooperation/participation of the member

Steps of the Commander-directed Mental Health Evaluations

STEP SIX **When the provider has completed the evaluation, the member will be provided with feedback about the recommendations and a written report of the CDMHE results will be forwarded to the requesting Commander, typically within one-two duty days of the evaluation.**

The report is only a brief summary (1-2 pages) of all the information contained in the member's chart that is directly relevant to the specific questions posed by the requesting Commander.

Commander-Directed Mental Health Evaluation Recommendations

Commander-directed Mental Health Evaluations

Commanders are the only individuals in the military organization who can make actual changes in the member's duty status.

Mental health professionals make recommendations in response to the requesting Commander's questions.

These recommendations are not entered into any personnel records and are not used at promotion boards, but become part of the permanent medical record.

Range of Possible Recommendations in CDMHEs

1. Return to duty (RTD) with no duty changes or restriction, no disqualifying mental disorder or personality disorder

Range of Possible Recommendations in CDMHEs

2. Return to duty (RTD) with the following duty changes or restrictions:
   - cross-training (change in AFSC)
   - concerns about PRP
   - security clearance
   - flying status
   - weapons-bearing privileges

Range of Possible Recommendations in CDMHEs

3. Return to duty (RTD), with continued mental health treatment recommended

Range of Possible Recommendations in CDMHEs

4. Administrative separation from the military based on the presence of a disqualifying psychiatric condition or personality disorder per AFI 36-3208

Range of Possible Recommendations in CDMHEs

5. Medical Evaluation Board (MEB) disposition based on the presence of a disqualifying psychiatric condition that requires MEB disposition per AFI 48-123

EMERGENCY COMMANDER-DIRECTED EVALUATIONS

Emergency CDMHEs

Emergency evaluations are conducted when a Commander, or designee, suspects that an active duty troop is an imminent danger to self or others.

Emergency CDMHEs

Rules regarding referrals in emergency situations differ from the routine evaluations in that:

a) A preliminary consultation with a mental health professional is recommended but not required

b) The member is not afforded a consultation period for chaplains, ADC, or IG

c) Notification paperwork does not need to be served prior to evaluation for safety reasons. A written rationale for the referral and rights advisement must be presented to the member ASAP.

Emergency CDMHEs

LIMITED PRIVILEGE SUICIDE PREVENTION (LPSP) PROGRAM

Provision in AFI 44-109

Program Objective - To identify and treat those members who, because of the stress of impending disciplinary action under UCMJ, pose a genuine risk of suicide.

To encourage and facilitate treatment, the LPSP provides limited confidentiality in certain, specific circumstances

Emergency CDMHEs

LIMITED PRIVILEGE SUICIDE PREVENTION (LPSP) PROGRAM

LPSP applies to any member who has been notified of:

a) his or her commander's intent to impose punishment pursuant to Article 15

b) court-martial charges

Emergency CDMHEs

LIMITED PRIVILEGE SUICIDE PREVENTION (LPSP) PROGRAM

Initiation

Defense counsel, trial counsel, law enforcement, staff judge advocate, first sergeant, squadron executive officer, or any other individual officially involved in the processing of disciplinary action who has a good faith belief that a member may present a risk of suicide shall communicate that concern to the member's immediate commander with a recommendation that the member be referred for an emergency mental health evaluation and possible placement in the LPSP program.

Emergency CDMHEs

LIMITED PRIVILEGE SUICIDE PREVENTION (LPSP) program

Duration

The limited protections provided by the LPSP program shall apply as long as the mental health professional determines that there is a continuing risk of suicide.

The mental health professional will notify the commander immediately upon determining the member is no longer suicidal and the limited protections afforded by the LPSP program shall cease

Emergency CDMHEs

LIMITED PRIVILEGE SUICIDE PREVENTION (LPSP) program

Limited Protection

While enrolled in the LPSP program, information disclosed to the mental health professional may not be used in the existing or any future UCMJ action or when weighing characterization of service in a separation.

Emergency CDMHEs

LIMITED PRIVILEGE SUICIDE PREVENTION (LPSP) program

Limited Protection DOES NOT APPLY to:

Disciplinary or other action based on independently derived evidence

Any information or evidence acquired or created by mental health professionals or other medical providers before placement in the LPSP program or subsequent to release from the program

Emergency CDMHEs

LIMITED PRIVILEGE SUICIDE PREVENTION (LPSP) program

Disclosing LPSP Case File Information

Do not review, handle, or disclose any LPSP case file information to any person or agency unless the Privacy Act of 1974 authorizes the disclosure.

Disclosures within the DoD are only authorized on a need-to-know basis when personnel need the information to perform official duties.

JCAHO/HSI Standards for Commander-directed Mental Health Evaluations

JCAHO/HSI Standards for Commander-directed Mental Health Evaluations

HSI -2000 OPS.7.1.1 Command Directed Evaluations

Criteria 1 The appropriate DoD and AF Instructions were utilized in conducting Commander-directed mental health evaluations

JCAHO/HSI Standards for Commander-directed Mental Health Evaluations

HSI-2000 OPS.7.1.1

Criteria 2 There was a process which required the Commander to consult with mental health before referring a member for a Commander-directed evaluation.

JCAHO/HSI Standards for Commander-directed Mental Health Evaluations

HSI-2000 OPS.7.1.1

Criteria 3 Protection of the patient's rights and due process was ensured in cases of emergency evaluations.

Appropriate paperwork is completed in emergency evaluations, although this paperwork does not need to be served prior to evaluation, due to imminent safety concerns.

JCAHO/HSI Standards for Commander-directed Mental Health Evaluations

HSI-2000 OPS.7.1.1

Criteria 4 The member's rights were protected, which included:

Written notice of the evaluation (including appointment time, description of the reasons for the referral, name of the mental health provider consulted and a copy of the member's rights).

JCAHO/HSI Standards for Commander-directed Mental Health Evaluations

HSI-2000 OPS.7.1.1

Criteria 5 Opportunity for consultation with legal counsel, inspector general, or congressional representative.

JCAHO/HSI Standards for Commander-directed Mental Health Evaluations

HSI-2000 OPS.7.1.1

Criteria 6 There were 2 working days between notice and the appointment at the mental health clinic except for emergency evaluations.

JCAHO/HSI Standards for Commander-directed Mental Health Evaluations

HSI-2000 OPS.7.1.1

Criteria 7 The member was informed of the evaluation results

Military Whistleblower Protection

Military Whistleblower Protection

DoDD 7050.6 Commanders cannot request mental health evaluations as reprisal for a military member consulting a member of Congress, an Inspector General, a member of an investigation or law enforcement organization, or any appropriate authority in the member's chain of command.

Military Whistleblower Protection

DoDD 7050.6 Commanders cannot restrict a member from lawfully communicating with an Inspector General, Area Defense Attorney (ADC), or members of Congress.

Actions of reprisal are punishable under Article 92 of the UCMJ.

Summary

Prevention is Key

- Catch problems early and encourage member's to self-refer for help

~ 50% of CDMHE result in negative career impacts

< 10% negative career impacts for self-referrals

CDMHE should not be used for referrals or as punishment

Insure Member's Rights

- Stick to the published guidelines

For more information, consult

The End

For more information regarding Command Directed Evaluations, contact Capt John Drozd or Capt Michelle Zak @ DSN 834-7804